

REMARKS/ARGUMENTS

Favorable reconsideration of this application in view of the above amendment and following remarks is respectfully requested.

Claims 1-2, 5, 7-8 are pending in this application. By this amendment, Claim 11 is canceled and no claims are amended or added herewith. It is respectfully submitted that no new matter is added by this amendment.

In the outstanding Office Action, Claim 1 was provisionally rejected on the ground of non-statutory obviousness-type double patenting over Claim 1 of co-pending application 10/706,977; Claim 1 was rejected on the ground of non-statutory obviousness-type double patenting over Claims 27 and 28 of co-pending application number 10/330,092; and Claims 1-2, 5 and 7-8 were indicated as being allowed.

In response to the double patenting rejections, Applicants submit herewith a Terminal Disclaimer. The filing of a Terminal Disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Accordingly, withdrawal of the rejection of the claims for double patenting is respectfully requested.

Consequently, for the reasons discussed in detail above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a Notice of Allowance is earnestly solicited.

Should the Examiner deem that any further action is necessary to place this application in even better form for allowance, the Examiner is encouraged to contact the undersigned representative at the below listed telephone number.


Respectfully submitted,

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